



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

December 30, 2005

Re: STB Finance Docket No. 33407-- Dakota, Minnesota & Eastern Railroad Corporation Construction into the Powder River Basin: **Release of Final Supplemental Environmental Impact Statement**

Dear Reader:

The Surface Transportation Board's Section of Environmental Analysis (SEA) is pleased to provide you with the enclosed Final Supplemental Environmental Impact Statement (Final SEIS) on the Powder River Basin Expansion Project (PRB Expansion Project) proposed by the Dakota, Minnesota & Eastern Railroad (DM&E). The Final SEIS was prepared in cooperation with five Federal agencies: the U.S. Department of Agriculture, Forest Service; the U.S. Department of Interior, Bureau of Land Management; the U.S. Army Corps of Engineers; the U.S. Department of Interior, Bureau of Reclamation; and the U.S. Coast Guard.

As you may know, after the Board gave final approval to the PRB Expansion Project in 2002, various parties sought judicial review. In Mid States Coalition for Progress v. STB, 345 F.3d 520 (8th Cir. 2003), the Eighth Circuit Court of Appeals upheld the Board with respect to all of the transportation issues and most of the environmental issues, but it remanded this rail line construction case for further Board review and analysis of:

- Whether mitigation for increased horn noise is warranted;
- The relationship between vibration and horn noise;
- Potential increased coal usage and related air emissions that could result from this project; and
- Ensuring that the Programmatic Agreement governing the historic review is executed.

This Final SEIS reflects SEA's independent analysis on the four issues remanded by the court and incorporates input from agencies, Tribes, organizations, environmental groups, businesses, and members

of the general public. It also responds to the comments received on the Draft SEIS and presents SEA's final conclusions and mitigation recommendations, should the Board decide to again approve the PRB Expansion Project.

The Final SEIS does not recommend that the Board impose additional air quality mitigation, mitigation to address the relationship between noise and vibration, or a condition requiring that DM&E provide or fund horn noise mitigation. But given the concerns raised by a number of commenters about horn noise and the potential cost of establishing quiet zones, SEA is recommending that the Board expand one of the conditions (Number 29) from its 2002 Decision approving this line to expand the role of DM&E's community liaison(s) to encompass providing assistance to communities or other entities interested in developing quiet zones.

Availability of the Final Supplemental Environmental Impact Statement

The Final SEIS has been mailed to key reviewing agencies, Tribes, elected officials, parties of record, and other interested citizens. It is also available for review in the reference section of over 90 public libraries. The entire document can be found on the Board's website (<http://www.stb.dot.gov>), under "E-Library," then "Decisions & Notices," and listed as "Environmental Review" by Service Date (December 30, 2005), Docket Number (FD 33407), Docket Prefix (FD) or Decision ID Number (20743).

Next Steps

Issuance of this Final SEIS completes the Board's environmental review process. The Board now will make a final decision on the proposed project. In accordance with CEQ regulations implementing NEPA, no agency decision on the proposed action may be made until 30 days after EPA publishes its Notice of Availability of the Final SEIS. Congress has not established a statutory time frame within which the Board must issue its final decision, and the Board has not announced a date for issuance of the final decision. However, in the interest of bringing this matter to closure, the Board will act as promptly as possible.

In its final decision, the Board will assess the potential environmental effects of the four remanded environmental issues, and the cost of any additional environmental mitigation it might impose to address those impacts. Then the Board will re-weigh the merits of the underlying proposal to reflect those impacts and costs and decide whether to again approve the project. No project-related construction may begin until the Board's final decision has been issued and has become effective. Parties who wish to file an administrative appeal of the Board's final decision may do so within 20 days of the Board's final decision, as provided in the Board's rules. The Board will consider any administrative appeals in a subsequent decision. The cooperating agencies will also issue decisions under their own governing statutes.

SEA appreciates the efforts of all who reviewed and commented on the Draft SEIS, as well as all who have contributed to the entire environmental review process for this proposal. Thank you for your interest and participation.

Sincerely,

A handwritten signature in black ink, reading "Victoria Rutson". The signature is written in a cursive style with a large, stylized "V" and "R".

Victoria Rutson, Chief
Section of Environmental Analysis